

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
MAY 28, 2002
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:47 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Julia James, Administrative Services Director; Rick Morgan, City Engineer; Pete Lippman, City Treasurer; Paul Adams, Parks and Recreation Director; Drew Purvis, Planning Director; Scott Albright, Senior Planner; Chuck Bergson, Public Works Director; Kim Nilsson, Solid Waste Consultant; Lt. Van Herpe, Sheriff's Department; and Lisa Pope, City Clerk

FLAG SALUTE

Harry Keily, President of the Santa Monica/Malibu California Teachers Association, led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin announced that the Council meet in Closed Session, discussed some but not all of the items listed on the posted agenda due to time, and took no reportable action.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on May 17, 2002.

APPROVAL OF AGENDA

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to approve the agenda as posted. The motion carried unanimously.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Commendations to April 9, 2002 General Municipal Election Poll Workers

City Clerk Pope thanked the poll workers for their service to the City at the April 9, 2002 General Municipal Election. Mayor Jennings presented Certificates of Appreciation to the Election poll workers.

B. Proclamation declaring the Day of the Teacher

Mayor Jennings presented the proclamation declaring May 28, 2002 as Day of the Teacher in the City of Malibu to Harry Keily, President of the Santa Monica / Malibu California Teachers Association. Mr. Keily thanked the Council for declaring the Day of the Teacher and for supporting the education system.

C. Presentation of Malibu Tile to Jena Chanel for Seven Years of Service to the City

Mayor Jennings presented a Malibu tile to Jena Chanel for seven years of service to the City of Malibu. Ms. Chanel thanked the Council for recognizing her.

D. Recognition of City of Malibu for the City's Website which Received Third Place in the Southern California Nevada Chapter of the National Association of Telecommunications Officers and Advisors (SCAN NATOA) Star Awards

Mayor Jennings discussed the award won by the City for its website.

ITEM 2A. PUBLIC COMMENTS

John Mazza, representing the Point Dume Community Association, discussed the Malibu Trails Master Plan and urged Council to direct staff to delete any reference to trails on Point Dume.

Judy Decker discussed the street improvements on Point Dume and suggested that "sidewalks" and "pathways" did not fall under the purview of the Trails Master Plan Advisory Committee.

Deirdre Roney indicated support to the City regarding the Bluffs Park crisis. She urged the Council to continue its efforts to find an alternate solution with the Coastal Commission and State Parks.

B. COUNCIL COMMENTS

Councilmember House requested Lt. Van Herpe brief the Council on the beach activity over Memorial Day Weekend. Lt. Van Herpe addressed the Council regarding the Summer Beach Team and explained the citations issued. Councilmember House thanked the Sheriff's Department for their work. She thanked the poll workers for working at the April 9, 2002 election. She thanked Chuck Bergson for his service to the City. She discussed the Chamber's event honoring the Mayor and outgoing Mayor.

Mayor Pro Tem Kearsley responded to the public speakers. He wished Public Works Director Bergson well. He discussed the importance of teachers.

Councilmember Stern thanked the poll workers. He thanked Public Works Director Bergson for his service. He asked if the issue of Safe Route to Schools should be agendaized for deletion from the Trails Master Plan. He discussed the Santa Monica / Malibu PTA Awards and announced the Malibu residents honored.

Councilmember Barovsky thanked the poll workers for their service to the City. She thanked Jena Chanel for her service. She responded to comments by the public speakers. She thanked Chuck Bergson for his work as Public Works Director and expressed regret that he was leaving the City.

Mayor Jennings added his best wishes to Public Works Director Bergson. He announced a celebration event honoring Police and Fire on July 4th at Bluffs Park. He discussed Legislative Actions Days in Sacramento, which he attended. He stated he attended the Chamber of Commerce Mayor's Luncheon. He thanked the Election poll workers. He discussed restrictions included in the Coastal Commission Draft LCP. He discussed the issue with Bluffs Park. He discussed the recent meeting of the Interim Zoning Ordinance Revisions and Code Enforcement Subcommittee at which they discussed problems that arose from expiration of building permits and planning approvals due to the length of time required to obtain Coastal Commission approval.

Mayor Pro Tem Kearsley discussed the recent meeting of the Telecommunications Ad Hoc Committee.

ITEM 3 CONSENT CALENDAR

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 19208 through 19324 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 259 in the amount of the warrant appearing

opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$1,093,364.49.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 Relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to suspend the order of the agenda to hear Item 5A at this point. The motion carried unanimously.

ITEM 5 OLD BUSINESS

- A. Winter Canyon Road and Civic Center Way, Pedestrian and Traffic Issues
Staff recommendation: Review the report on Winter Canyon Road and Civic Center Way pedestrian and traffic issues and provide direction to staff.

Public Works Director Bergson presented the staff report.

Deirdre Roney, representing Webster and Our Lady of Malibu (OLM) families, discussed their support for installation of a City park at OLM and Civic Center Way.

Camille Roney, Webster student, indicated support for a City park.

Bill Bendly, representing families from OLM, indicated support for the cul de sac and park concept. He discussed the dangerous safety situation to children at Winter Canyon and Civic Center Way.

Ryan Embree discussed z-traffic causing dangerous traffic situations on Civic Center Way. He discussed past efforts by the City to decrease the problem of z-traffic. He indicated support for the proposed cul de sac solution.

Edward Gonzalez favored the cul de sac option. He stated it was necessary to obtain input from the following: 1) townhome associations; 2) Fire and Sheriff's Departments; and 3) MTA in terms of re-routing Line 434.

Mayor Pro Tem Kearsley reported on the hearing before the Public Works Subcommittee. He discussed the inclusion of a fire road for access during emergencies. He explained the solution provided for MTA service. He discussed the proposals discussed by the subcommittee.

Councilmember Barovsky discussed the dangerous traffic situations on Civic Center Way.

Councilmember House thanked the subcommittee for their hard work. She indicated support for further study of the matter. She requested reports from Fire, Sheriff, HOA, MTA, economic analysis, and review by the Public Works and Public Safety Commissions. She requested Parks and Recreation Director Adams provide input on the proposed park.

Councilmember Stern requested a timeframe be placed on the matter so that review by the Commissions occurred rapidly. City Manager Lichtig explained that it would require at least 90 days with the Commission transitions.

Mayor Jennings asked staff what kind of direction they were looking for and what would be done from there. Public Works Director Bergson explained that staff was asking the Council to consider the alternatives and to provide direction to staff to study the impacts of the proposal.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to direct staff to review the cul de sac alternative exclusively.

Councilmember House stated a letter from the School District indicating the easement could be used for emergency purposes was necessary.

Mayor Pro Tem Kearsley discussed the potential of utilizing the land for a park.

Councilmember Stern indicated support for the motion.

Mayor Jennings questioned what was involved with the proposed cul de sac alternative. He discussed concern expressed by the Knolls homeowners. Public Works Director Bergson explained that pulsing traffic was included in the proposed alternative. Mayor Jennings suggested testing the proposal prior to permanently making the changes.

The question was called and the motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Amendment of the Subdivision Ordinance – An Amendment of Chapter 10, Section 10.3.01 Map Number, Section 10.3.10 Subdivision Review, Chapter 10.6.00 Miscellaneous Applications (Lot Line Adjustment Procedure), Section 10.6.04 Merger of Parcels; Requirements, Section 10.6.05 Other Requirements; Effective Date of Merger, and Section 10.8.03 Procedure (for slope/density exemptions) (continued from April 8, 2002 and May 13, 2002)
Staff recommendation: Introduce on first reading Ordinance No. 232, amending the Subdivision Ordinance , Article X of the Malibu Municipal Code.

Planning Director Purvis presented the staff report.

Walter Sauter, representing his four children and 15 grandchildren, discussed his opposition to the proposed slope density ordinance. He suggested Section 2.B.H.C. be amended to read as follows: "Upon application, the Planning Commission shall grant an exemption from the slope/density formula for one additional lot if it finds that the subject property meets the following criteria ..."

Leah Sauter urged the Council to grant her family the right to divide their parcel in accordance with the current Malibu Zoning Code.

John Mazza suggested restrictions be placed for those granted exemptions under the slope/density ordinance prohibiting further division.

Lynn Heacox presented an exhibit depicting the existing versus proposed slope/density ordinance. He referenced Land Use Plan Implementation Measure 92.

Norm Haynie suggested that the overriding criteria be that the resulting development pattern from the lot line adjustment is better than the existing development pattern. He questioned the requirement to bring existing structures into conformity. He suggested the slope density formula be applied with respect to existing zoning designated in the General Plan.

Mayor Jennings provided an overview on the matter before the Council, including lot line adjustments, mergers, and exemptions to the slope/density formula.

The Council discussed the proposed exemptions to the slope/density formula.

Mayor Jennings suggested Section 2.H.C. be amended to read as follows: "Upon application, the Planning Commission shall grant an exemption from the slope/density formula to allow creation one additional lot if it finds that the subject property meets all the following criteria: 1. The proposed lot(s) shall not be smaller than the median lot size as determined by Section 10.8.03.D."

Councilmember House suggested amending Section 2.H.D. by striking the following sentence: "In the event that the 500 foot radius crosses a public street, the lots across the public street from the subject property shall not be included within the list."

Mayor Pro Tem Kearsley suggested amending Section 2.H.D. by revising the first sentence to read as follows: "To calculate the median lot size, the applicant shall submit a list of properties and corresponding lot sizes taken from a 500-foot radius of the exterior boundaries of the subject property but in no event less than ten properties."

Councilmember Barovsky expressed concern regarding the number of additional lots that could be created within the City. She requested language be added to indicate that newly created lots would be subject to the slope density formula.

Mayor Pro Tem Kearsley suggested adding a provision that all existing laws apply to newly created lots. City Attorney Hogin explained that adding such a provision brought question to other ordinances. She suggested including an uncodified section indicating that the lot created follows any existing laws. She suggested adding a section to read as follows: "Applicability of Article 9 - Any lot created by the provisions of this ordinance shall be applicable to all laws of Article IX."

MOTION Mayor Pro Tem Kearsley moved and Mayor Jennings seconded a motion to approve the following amendments:

Section 2.H.C. be amended to read as follows: "Upon application, the Planning Commission shall grant an exemption from the slope/density formula to allow creation one additional lot if it finds that the subject property meets all the following criteria: 1. The proposed lot(s) shall not be smaller than the median lot size as determined by Section 10.8.03.D."

Section 2.H.D. amended by striking the following sentence: "In the event that the 500 foot radius crosses a public street, the lots across the public street from the subject property shall not be included within the list."

Section 2.H.D. amended by revising the first sentence to read as follows: "To calculate the median lot size, the applicant shall submit a list of properties and corresponding lot sizes taken from a 500-foot radius of the exterior boundaries of the subject property but in no event less than ten properties."

Adding Section 4 to read as follows: "Applicability of Article IX - Any lot created by the provisions of this ordinance shall be applicable to all laws of Article IX."

The question was called and the motion carried unanimously.

RECESS Mayor Jennings called a recess at 8:55 p.m. The meeting reconvened at 9:03 p.m. with all Councilmembers present.

The Council discussed the issue of mergers.

Mayor Jennings suggested Section 2.D.F., related to Malibu Municipal Code Section 10.6.04, be referred to staff for revision.

CONSENSUS By consensus, the Council agreed to refer Section 2.D.F. to staff for rewording.

The Council discussed lot line adjustments.

Mayor Jennings suggested referring Section 2.D.B., related to Malibu Municipal Code Section 10.6.02, to staff for rewording.

Councilmember Barovsky asked if mergers were appealable to the Planning Commission. Mayor Jennings explained that the matter was a ministerial act and it was not a good idea to have the Council decide on ministerial acts.

Councilmember Barovsky expressed concern regarding the size of lots created by mergers. She suggested the merger and lot line adjustment restrictions be brought back with provisions to created lots.

CONSENSUS By consensus, the Council referred Sections 2C, 2D, 2E, 2F, and 2G to staff for revisions, changed Section H to become Section C, and added Section 4, changing Section 4 to become Section 5.

MOTION Councilmember Barovsky moved and Mayor Jennings seconded a motion to introduce Ordinance No. 232 as amended. The question was called and the motion carried unanimous.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Stern seconded a motion to reorder the agenda to hear Item 7.A. at this point. The motion carried unanimously.

ITEM 7 COUNCIL ITEMS

A. Council Appointments to City Commissions and Committees

Staff recommendation: Appoint new Commission and Committee members to the various City Commissions and Committees.

Councilmember Barovsky appointed Ed Lipnick to the Mobilehome Park Rent Stabilization Commission.

Councilmember House appointed Todd Sloan to the Mobilehome Park Rent Stabilization Commission.

Councilmember Stern appointed Deirdre Roney to the Mobilehome Park Rent Stabilization Commission.

Councilmember Barovsky appointed Lauren Sills to the Parks and Recreation Commission.

Councilmember Stern appointed Dermot Stoker to the Parks and Recreation Commission.

Councilmember Barovsky appointed Deirdre Roney to the Planning Commission.

Councilmember Stern appointed Robert Adler to the Planning Commission.

Councilmember Barovsky appointed Carol Randall to the Public Safety Commission.

Councilmember Stern appointed Ryan Embree to the Public Safety Commission.

Mayor Pro Tem Kearsley appointed Clarence Chapman to the Public Safety Commission.

Councilmember Barovsky appointed Dan Wallace to the Public Works Commission.

Councilmember Stern appointed Melanie Goudzwaard to the Public Works Commission.

Mayor Jennings appointed Paul Grisante to the Public Works Commission.

Councilmember House appointed Hans Laetz to the Telecommunications Commission.

Councilmember Stern appointed Paul Spiegel to the Telecommunications Commission.

Councilmember Barovsky deferred her appointment to the Telecommunications Commission to June 10, 2002.

The Council appointed Kristine Clark to the Native American Cultural Resources Advisory Committee.

Mayor Pro Tem Kearsley, Councilmember Barovsky and Councilmember Stern deferred their appointments to the Senior Blue Ribbon Committee to June 10, 2002.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS (Continued)

- A. Proposed Budget, Appropriations Limit, and Schedule of Fees for Fiscal Year 2002-2003
Staff recommendation: Open the public hearing, receive public testimony, and continue the public hearing to June 10, 2002.

Councilmember House explained that the City Treasurer needed to review proposed budget with the Administration and Finance Subcommittee prior to the Subcommittee making its recommendation to the Council. She suggested taking public testimony and then continuing the matter to allow the Administration and Finance Subcommittee to review the budget with the City Treasurer.

Councilmember Barovsky stated she was on Administration and Finance Subcommittee and Mayor Pro Tem Kearsley was on the Education Subcommittee.

City Manager Lichtig stated staff had met and discussed the budget with the City Treasurer and his recommendations were incorporated. She requested Council provide any concerns on the proposed budget it may have at this time.

MOTION Councilmember House moved and Councilmember Barovsky seconded a motion to continue the item to June 10, 2002. The motion carried unanimously.

Beverly Hammond, Point Dume Community Service District, presented the District's proposal to accomplish Pt. Dume Park access. She presented a letter from the Point Dume Community Association supporting maintaining open access to the school's playground/park and facility after school.

John Mazza discussed fees charged for appeals and indicated they were too high.

Charleen Kabrin testified that appeal fees were too high. She discussed fees charged by surrounding communities and suggested review of fee waivers for organizations.

- B. Appeal 01-16 – An appeal of the Planning Commission's decision to deny an application for the construction of a new two-story single-family residence above the base 18-foot but not to exceed 28-feet in height (PPR 00-129/SPR 00-083).
Appellant: Arthur and Kimberly Silver; Applicant: Barsocchini & Associates;
Owner: Arthur and Kimberly Silver; Location: 24920 Pacific Coast Highway
Staff recommendation: Continue to June 24, 2002 to allow staff to complete conformance review of project revisions that address appeal issues and prepare agenda report.

By acclamation, the Council continued the item to June 24, 2002.

ITEM 5 OLD BUSINESS

- A. Modifications to Waste Management Program
Staff recommendation: Approve the following modifications to the City's waste management program: 1) Begin graduated enforcement of the multi-family and

commercial recycling programs; 2) Direct staff to proceed with the processing of the Waste Generation Study as submitted to the California Integrated Waste Management Board; 3) Direct staff to take no action on Mandatory Service Requirement; 4) Direct staff to implement a requirement for new projects to divert construction and demolition debris; 4) Establish Solid Waste Permit/Blanket Encroachment Permit Fees; 6) Direct staff to investigate restricting trash collection within the Los Angeles County Malibu Garbage District (eastern Malibu) to the hours between 10 a.m. to 3 p.m.; and 7) Direct staff to take no action on the expiration of the exclusive permitting of the residential haulers and allow the existing restriction to sunset on June 30, 2002.

Solid Waste Consultant Nilsson presented the staff report.

MOTION Councilmember Barovsky moved and Councilmember House seconded a motion to approve the following modifications to the City's waste management program: 1) Begin graduated enforcement of the multi-family and commercial recycling programs; 2) Direct staff to proceed with the processing of the Waste Generation Study as submitted to the California Integrated Waste Management Board; 3) Direct staff to take no action on Mandatory Service Requirement; 4) Direct staff to implement a requirement for new projects to divert construction and demolition debris; 4) Establish Solid Waste Permit/Blanket Encroachment Permit Fees; 6) Direct staff to investigate restricting trash collection within the Los Angeles County Malibu Garbage District (eastern Malibu) to the hours between 10 a.m. to 3 p.m.; and 7) Direct staff to take no action on the expiration of the exclusive permitting of the residential haulers and allow the existing restriction to sunset on June 30, 2002.

FRIENDLY AMENDMENT

Councilmember House amended the motion to require compliance within 90 days. Councilmember Barovsky accepted the amendment.

AMENDMENT

Mayor Jennings amended the motion to include elements of encouragement through recognition. The maker and seconder of the motion accepted the amendment.

Mayor Jennings questioned the suggested Construction, Demolition and Renovation Material Recycling program. Solid Waste Consultant Nilsson explained that staff was suggesting the program be a condition of project approval as a voluntary program.

Mayor Jennings requested Item 5 – Annual Solid Waste Permit and Blanket Encroachment Permit include a requirement that all bins have reflective tape on all four sides.

AMENDMENT

Mayor Jennings moved and Councilmember Barovsky seconded a motion to amend motion to require reflective tape on all four sides of bins. The motion carried unanimously.

The motion on the main motion as amended carried unanimously.

A. Local Coastal Plan Update – Overview and Review of Chapters 4 and 5 of the January 10, 2002 Land Use Plan

Staff recommendation: After public input, continue discussion to the June 10, 2002 City Council Meeting.

Planning Director Purvis presented the staff report.

CONSENSUS

By consensus, the Council received and filed the report and continued the item to June 10, 2002.

ITEM 6 NEW BUSINESS

ITEM 7 COUNCIL ITEMS

ADJOURN At 10:10 p.m., Councilmember House moved and Councilmember Barovsky seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of
the City of Malibu on June 10, 2002.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)